

**ORDINANCE NO. 923**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD ACCEPTING AND APPROVING A WASTEWATER RATE STUDY AND ADOPTING REVISED MONTHLY USER CHARGES FOR WASTEWATER SERVICE FOR FISCAL YEARS ("FY") 2013/14 TO 2017/18 AND SUBSEQUENT YEARS.**

**WHEREAS**, pursuant to Chapter 13.04 of the Brentwood Municipal Code, the City operates a municipal wastewater system; and

**WHEREAS**, it is prudent and customary for agencies providing wastewater service to review their rates every two to five years to ensure that sufficient revenues are collected to operate the wastewater enterprise; ensure that debt service ratios are adequately met; and that the level of service provided reflects the rates being charged; and

**WHEREAS**, the "City of Brentwood Water, Wastewater, and Solid Waste Rate Study" (the "Study") prepared by HF&H Consultants, LLC, and dated October 30, 2013, Revised November 6, 2013, which is on file and available for inspection in the Office of the City Clerk and is hereby incorporated by reference, proposes new monthly wastewater rates to address the needs of the City's residents and businesses for sanitary and effective wastewater service; and

**WHEREAS**, the equitable distribution of the wastewater treatment and collection cost is a requirement of the State Water Resources Control Board's revolving fund loan program which provided a loan to the City for its wastewater treatment plant expansion and upgrades; and

**WHEREAS**, it is imperative to implement the Study to establish new wastewater rates for the preservation of the public health and safety based on the recitals set forth above, to provide adequate revenue to pay for operating expenses, to maintain adequate debt service coverage, to maintain a positive cash flow within the Wastewater Enterprise Fund, and to equitably allocate wastewater treatment and collection costs to each user; and

**WHEREAS**, the revenue derived from the user rates is used in a manner consistent with Health and Safety Code Section 5471 and the City's ordinances pertaining to wastewater services including, without limitation, the payment of State Revolving Fund Loans and other debt service with respect to the financing of capital facilities for the wastewater system; and

**WHEREAS**, the City mailed to affected property owners and customers notice of the proposed wastewater rate increase and of a public hearing on the proposed wastewater rate increase; and

**WHEREAS**, the notices informed affected persons of their right to file written protests against the wastewater rate increase, and such protests are processed by the City pursuant to Resolution No. 2013-123; and

**WHEREAS**, as set forth in the notice, on November 12, 2013, the City Council held a full and fair public hearing on the proposed wastewater rate increases. At the hearing, all interested persons had an opportunity to provide oral and written testimony regarding the proposed wastewater rate increases; and

**WHEREAS**, in accordance with the requirements of section 6 of Article XIII D of the California Constitution and Government Code section 53755, the November 12, 2013 hearing was held not less than 45 days after mailing notice of the hearing to the addresses to which the City customarily mails its billing statements, or, for any parcel without a current billing address, to the record owner; and

**WHEREAS**, the City accepted and caused the tabulation of all written protests against the proposed wastewater rate increases, including protests submitted via fax and e-mail. Based upon the results of this tabulation, a majority protest against the proposed wastewater rate increases does not exist; and

**WHEREAS**, based on the information presented at the November 12, 2013 hearing, including but not limited to the Study, and oral and written testimony and protests from members of the public, the City Council determines that:

- A. Revenues derived from the proposed rates are not expected to exceed the funds required to provide wastewater service.
- B. Revenues derived from the proposed rates may not be used for any purpose other than to provide wastewater service.
- C. The amount of the proposed rates imposed upon any parcel or person as an incident of property ownership will not exceed the proportional cost of wastewater service attributable to the parcel.
- D. The proposed rates are imposed upon a parcel only where wastewater service is actually used by, or immediately available to, the parcel.

**WHEREAS**, this Ordinance does not constitute a project under the California Environmental Quality Act ("CEQA") Guidelines as set forth in Title 14, section 15378 of the California Code of Regulations, because it amends a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment (§ 15378(b)(4)) and is an administrative activity of government that will not result in direct or indirect physical changes in the environment (§ 15378(b)(5)). Furthermore, if this Ordinance were a project, it would be categorically exempt from CEQA pursuant to Title 14, Section 15273(a) of the California Code of Regulations, because it establishes rates and charges to fund current operating expenses of the City.

**WHEREAS**, the City Council now desires to implement the proposed wastewater rate increase.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRENTWOOD DOES ORDAIN AS FOLLOWS:**

Section 1: Study.

The City Council accepts the Study and approves the findings contained therein with respect to wastewater rates and service.

Section 2: New Rates and Charges.

The City Council adopts the wastewater rates as set forth in Exhibit A to this Ordinance and further clarified by the Study.

Section 3: Repeal.

All resolutions and ordinances, or portions thereof, in conflict herewith are hereby repealed. The City Clerk is directed to publish this Ordinance in any manner consistent with Government Code Section 36933.

Section 4: Rates for Subsequent Years.

Unless the City Council takes action to change the wastewater rates for fiscal years subsequent to FY 2017/18, the wastewater rates charged for FY 2017/18 shall continue to apply to subsequent fiscal years.

Section 5: Recitals.

Each of the matters set forth in the recitals of this Ordinance is true and correct. All recitals constitute findings associated with the matters addressed in this Ordinance.

Section 6: Severability.

If any subdivision, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance. It is the City Council's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

Section 7: Effective Date.

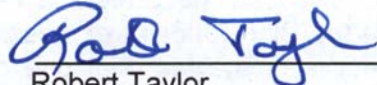
All rates and charges set forth in this Ordinance shall become effective on January 10, 2014 and shall remain in effect until changed by the City Council.

**THE FOREGOING ORDINANCE** was introduced with the first reading waived at a regular meeting of the Brentwood City Council on the 12<sup>th</sup> day of November, 2013, by the following vote:

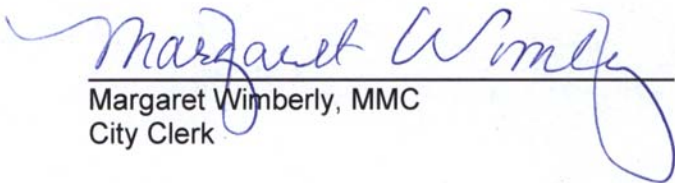
**AYES:** Barr, Bryant, Clare, Stonebarger, Taylor  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

And was adopted at a regular meeting of the Brentwood City Council on the 10<sup>th</sup> day of December, 2013, by the following vote:

**AYES:** Barr, Bryant, Clare, Stonebarger, Taylor  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

  
\_\_\_\_\_  
Robert Taylor  
Mayor

ATTEST:

  
\_\_\_\_\_  
Margaret Wimberly, MMC  
City Clerk

## EXHIBIT "A"

Wastewater rates are comprised of a fixed (base) charge in addition to a charge for the volume of water used

	Current Rate	WASTEWATER RATES PER MONTH				
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Base Charge	13.78	14.19	14.62	15.06	15.51	15.97
Lateral Maintenance Fee	1.70	1.75	1.80	1.86	1.91	1.97
<b>Variable Charge per unit Residential</b>	<b>4.80</b>	<b>4.94</b>	<b>5.09</b>	<b>5.25</b>	<b>5.40</b>	<b>5.56</b>
Residential Maximum per month (Base +Variable)	49.05	50.52	52.04	53.60	55.21	56.86
<b>Variable Charge per unit Non-Residential</b>						
Auto Sales and Repair	5.29	5.34	5.50	5.67	5.84	6.01
Barber & Beauty Shop	4.41	4.45	4.59	4.73	4.87	5.01
Bakery	13.55	13.69	14.10	14.52	14.95	15.40
Car Washes	4.55	4.60	4.73	4.88	5.02	5.17
Gas Stations	5.12	5.17	5.33	5.49	5.65	5.82
Grocery Stores	11.53	11.65	11.99	12.35	12.73	13.11
Hotels without Restaurants	5.28	5.33	5.49	5.66	5.83	6.00
Institutions, Churches, HOAs	4.66	4.71	4.85	4.99	5.14	5.30
Laundromats	4.80	4.85	4.99	5.14	5.30	5.46
Laundry, Commercial	6.22	6.28	6.47	6.66	6.86	7.07
Office Buildings, Banks	4.72	4.77	4.91	5.06	5.21	5.37
Restaurants	12.79	12.92	13.31	13.70	14.12	14.54
Retail Stores	4.80	4.85	4.99	5.14	5.30	5.46
Schools	4.41	4.45	4.59	4.73	4.87	5.01
Other Commercial	4.92	4.97	5.12	5.27	5.43	5.59
Mixed Use	6.44	6.50	6.70	6.90	7.11	7.32

**Unit =1,000 Gallons**